

DEPARTMENT OF REAL ESTATE FORUM

Sacramento Sheraton Hotel

June 9, 2006

1:00 – 2:30 PM

Meeting Review

DRE Staff in Attendance: Commissioner Jeff Davi, John Liberator, Wayne Bell, Bill Moran, Fa-Chi Lin, Barbara Bigby, Tom Pool, Chris Neri, Lisa Stratton and Don Pengilly.

OPENING REMARKS:

Commissioner Davi opened the meeting at 1:00 p.m., with staff introductions. He acknowledged the attendance of Walt McDonald, past-NAR President, and Pat Neal, former Deputy Secretary for Housing at the Business, Transportation & Housing Agency.

Accompanied by a slide show, Commissioner Davi provided an update of DRE operations. Items of interest included: 1) Proposed budget for the 06/07 fiscal year has been increased by \$9 million from the current fiscal year to \$43 million. This increase in funding is directly related to six budget change proposals, which are currently pending approval via the budget process; 2) Efforts continue to reduce license processing timeframes – timeframes have already been reduced by approximately 100 days to 81 days; 3) DRE is on pace to exceed 9000 enforcement cases in the 05/06 fiscal year, as compared to the average of 6,000-7,000 in prior fiscal years; 4) The most commonly seen real estate law and audit violations; 5) A historical look at the peaks and valleys of the real estate market in comparison to the rise and fall of the licensee population. Based on this perspective, Commissioner Davi expects to see a continuing increase in the number of applications for licensure for the next 12-15 months.

OPERATIONS REPORT – JOHN LIBERATOR

John Liberator, Chief Deputy Commissioner, began his report by summarizing the fiscal status of the Department, comparing the period of July 1, 2005 through April 30, 2006, which represents 10 months of the current fiscal year, with the same period in the prior fiscal year:

Revenue - up 16 percent, which continues to reflect the ongoing interest in real estate licensure.

Net expenditures - down 2 percent.

Reserves - up 50 percent, which increase is directly related to the increased revenue.

As to the proposed budget for the 2006/2007 fiscal year, which begins July 1, the DRE has authorized expenditures of approximately \$43 million, which includes six budget change proposals (BCPs) that the Commissioner authorized the department to pursue. Those six BCPs are:

1) Electronic Exams – This proposal will provide for electronic exams and will eventually lead to immediate exam results for all examinees, as well as the issuance of a temporary license for those applicants who pass the exam and have satisfied all licensing requirements, including fingerprint clearance.

2) New Interactive Voice Response System. The current telephone system is antiquated and unable to handle the high volume of calls made to the licensing and exam sections. From the period July 2005 through April 2006, 1,185,311 calls were received, which reflects a 5 percent increase over last year, and equates to approximately 118,530 calls per month.

- 3) Augment Information Technology Section by One Position. This position will be dedicated to further development of the DRE website and eLicensing system.
- 4) Augment Enforcement Staff. This includes investigators, auditors, attorneys and support staff, which will help to provide more timely processing of consumer complaints, as well as address the increased workload caused by the rising licensee population.
- 5) Refresh of the Information Technology Infrastructure. Current software and hardware are dated and no longer supported by the manufacturer, which limits the ability to upgrade existing IT systems and improve service offerings.
- 6) Augment Subdivision Staff. Additional staff will allow the department to provide more timely issuance of Public Reports so developers do not incur increased or unnecessary carrying costs.

The proposed 06/07 budget, including the aforementioned BCPs, has been passed by both the Assembly and Senate Budget Committees, however, there is still a ways to go in the approval process.

As to Licensing, again comparing July 2005 through April 2006, with that same period in the prior FY:

Exams – Salesperson exams up 14 percent (and up 68 percent from two years ago).
Broker exams up 14 percent (and up 42 percent from two years ago).
Looking back at fiscal year 03/04 (July through April), 117,000 RES exams were scheduled. In the current fiscal year, over that same time period, 196,000 exams were scheduled. This reflects an increase of almost 80,000 exams.

With respect to the satellite exam sites that the Department has used in the past, due to the loss of the provider, that program will be discontinued as of July 2006. To accommodate the high volume of exam applicants, the Department will be returning to the use of “mega” exams, wherein approximately 800 to 1500 people are tested at one sitting.

Original licenses issued:

Salesperson licenses issued increased by 10 percent (up 49 percent from two years ago)
Broker licenses issued increased by 20 percent (up 69 percent from two years ago)

Renewals:

Key is the percentage up for renewal who actually renewed:

Salespersons – 82 percent renewed

Brokers – 90 percent renewed

As to the total licensee population, looking back two years, as of April 30, 2004, there were 385,134 licensees; as of April 30, 2005, there were 436,735 licensees; and as of April 30, 2006, there were 495,329 licensees. As of today (June 9, 2006), there are 501,212 real estate licensees, crossing the half-million mark. This is an all time high and more applications are pending.

Liberator announced that the Department, under the direction of Commissioner Davi, is pursuing a new license certificate for its licensees. The new license is due to be available by the end of the 2006 calendar year.

As to Subdivision activity, again comparing the period of July through April of the current fiscal year with the same period in the prior fiscal year, applications for Subdivision Public Reports

increased by 7 percent. Two years ago, the Subdivision Section experienced a 14 percent increase in applications, and three years ago, there was a 30 percent increase. The current 7 percent increase isn't as great as prior years, but is consistent with the projections of the building industry.

As to Enforcement activity, again comparing July through April of the current fiscal year with the same period last fiscal year:

977 original licenses were denied in fiscal year 05/06 as compared to 967 in fiscal year 04/05.

485 existing licenses were disciplined in the current fiscal year as compared to 446 last fiscal year.

As to Audit activity, 538 audits were conducted in the current fiscal year as compared to 552 in the prior fiscal year.

Liberator concluded his report by sharing some interesting history about the DRE and the licensing of brokers and salespeople.

ENFORCEMENT CASES – BILL MORAN

Bill Moran, Assistant Commissioner for Enforcement, discussed various creative financing schemes used in real estate transactions. These schemes are designed to get buyers large sums of money, while at the same time, defraud the lender and the seller in the transaction. As examples of these types of schemes, Moran reported on two cases recently investigated by the Department that involved the use of double escrowing properties, and price inflations. In conclusion, Moran advised that the Legal Services Division of CAR published an article in March 2006 regarding fraud activities, which article contains some very valuable information and is highly recommended reading. Moran emphasized that these types of schemes can be prevented if agents are educated and aware of what's happening in the industry.

AUDIT CASES – FA-CHI LIN

Fa-Chi Lin, Chief Auditor, reported on a recent audit case involving trust fund mishandling and failure to supervise. In this case, among other violations, the broker failed to practice proper segregation of duties and as a result, his broker license was revoked. Mr. Lin set forth the duties that are considered incompatible or conflicting and should be separated: physical custody or access to trust funds; recording transactions for trust funds in the accounting records; authorization or approval of transactions affecting those trust funds (such as signatory authority on trust accounts); and review of reconciliations, source documents and recorded transactions. Lin recommended that the amount of review or control by the broker be increased in very small offices, where proper segregation of duties can be difficult due to a lack of staff. In conclusion, Lin stated that trust fund shortages are preventable with proper supervision and the establishment of important controls.

eLICENSING FEATURES – BARBARA BIGBY

Barbara Bigby, Assistant Commissioner for Administrative Services, gave a live demonstration of the features of the eLicensing system, and discussed the pending release of a new online function. eLicensing has many self-service features including: individual user name and password; online help; detailed instructions; customized menu based upon conditions of record;

ability to print a completed online form; online transaction tracking; return email acknowledgement.

eLicensing offers Expedited eProcessing for: examination services; mailing address changes; broker and salesperson renewals; salesperson additions/changes of employing broker; broker certification of salesperson employment; broker discontinuation of salesperson employment; and duplicate license requests.

Available eLicensing Examination Services: Apply for and schedule a salesperson examination; reschedule a salesperson or broker exam date; apply to re-take a salesperson or broker exam; change an exam mailing address; view exam records; check the exam scheduled date, time and location; request a duplicate schedule notice; view exam results; request duplicate results notice; and see if original license has been issued. Tutorials on how to use eLicensing are also available.

Bigby reported that 50 percent of all license changes, 47 percent of all license renewals, and 52 percent of all examinations are completed online via eLicensing. Customer satisfaction surveys report customer satisfaction above 99 percent. High marks were given for ease of use, time required to complete, relative importance of maintaining a license and overall satisfaction. eLicensing has helped DRE meet the ongoing high licensing workload demands. Since September 2002, 888,551 license transactions have been conducted via eLicensing. To do that number of transactions manually, DRE would have needed 30.5 additional Licensing positions. DRE is seeking to add one additional position to maintain the system and develop planned enhancements, beginning fiscal year 06/07.

Future enhancements to eLicensing include: officer renewals and corporate changes; tracking the status of mailed-in applications; checking fingerprint processing stages; adding and removing branch offices; downloading scheduling reservations; purchase of lists and publications; and electronic fund transfers for fee payments.

Another enhancement, which is due to roll out this summer, is a new process that will allow a search to be conducted on a business address, and will result in the name of the broker who is licensed to conduct business at that address. A click on the broker's name will bring up the license record of the broker along with the names of any salespersons assigned to it.

CONSUMER OUTREACH

Tom Pool, Assistant Commissioner for Legislation and Public Information, reported that the DRE utilizes its website as its primary means of outreach and dissemination of information to the public and the real estate industry. Recent additions to the website include an updated version of the Disclosures in Real Property Transactions booklet. This booklet sets forth the disclosures required in resale transactions as well as new property transactions. Also new to the site is a compliance manual for mortgage brokerage operations. Another recent improvement to the website and a valuable resource for consumers is the addition of the Real Estate & Financial Services License Information button, which is a one-stop link to California real estate and financial service license information, laws and regulations.

OPEN FORUM *(Due to electronic difficulties, some questions/answers may have been eliminated):*

Q) How do we report a transaction that we believe involves a price inflation scheme?

A) Moran - The Enforcement Section investigates all complaints. You can download the complaint form from our website, or send a letter to the Department.

Q) After recently having occasion to use eLicensing, I can tell you it is extremely simple to use. During your demonstration of new eLicensing features, I noted that MapQuest is the site being used for obtaining driving directions. My request is that you find a vendor who offers this type of service without the advertising that MapQuest promotes.

A) Bigby - MapQuest was used for demonstration purposes only.

Q) I am simply amazed at the mediocrity and incompetence of the people coming into the business. I've spent thousands of dollars to put forth an image of professionalism and I don't like being compared to a used car salesman. If the people coming into the industry were more competent in the first place, we wouldn't be seeing the problems we're having today. I am asking you to address this issue expeditiously.

A) Commissioner - As the industry regulator, it is the responsibility of this department to review the qualifications of license applicants to ensure they meet the minimum requirements for licensure, and to administer the license examinations. The department is not responsible for training new licensees, and having passed the exam does not automatically mean they have the ability to conduct a real estate transaction. It is the responsibility of each and every broker to provide adequate supervision and training to their salespeople. The Department of Real Estate continues to work with CAR to address the issue of professionalism in the industry.

Q) I have difficulty with certain mortgage brokering practices and the standard of care that is afforded to consumers. For example, buyers aren't getting good faith estimates until sign-off. Agency disclosure isn't even required in the loan transaction. Some duty to the buyer is needed. What are your feelings on this issue?

A) Pool - The level of disclosure required really depends on where the loan is obtained. Mortgage Loan Brokers licensed by the DRE must provide the MLDS within 3 days after receipt of application. This requirement does not apply to direct lenders. A buyer can determine the disclosure requirements of their lender by knowing under which entity they are licensed. The new common license search button available on the DRE website can be used to obtain this information.

Q) Has the DRE backed off on the proposed requirement to have license numbers on all contracts?

A) Commissioner - CAR created a task force to look at the issue, and it was agreed that it would be beneficial to have the license number on all first-point-of-contact documents. The Department is still pursuing the proposal but because it will require legislation to accomplish, it won't happen over night. It will hopefully be in place in 2008. It is my understanding that CAR has already updated their WIN forms to include a place for the license number on all contracts.

Q) When new examination questions are drafted, does the DRE review them before they are added to the exam? In the future, can more questions be included that are relevant to current real estate practices?

A) Commissioner – There is a formal review process for all new test questions. It occurs approximately every 5 years, and includes a 3rd party, independent review. We seek input and feedback on the creation of new questions from a panel of industry experts, including representatives of CAR.

With no further business to discuss, the meeting was adjourned. Next meeting is scheduled for Wednesday, October 18, in Long Beach.

Lisa Stratton
Recorder